

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT ("Agreement") is entered into by and between Regents of the University of Minnesota ("University"), on behalf of its Department of Intercollegiate Athletics ("Department"), and Philip John Fleck ("Coach"). As of the date of last signature below, this Agreement supersedes all prior agreements and governs the relationship between the parties.

WHEREAS, subject to the terms and conditions of this Agreement, the University desires to employ Coach as head coach of its intercollegiate football team at the University's Twin Cities campus ("Team"), and Coach is willing to accept such position and perform such services and duties;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and such other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

I. EMPLOYMENT TERM AND DUTIES

1.1. Employment Term. Subject to the terms and conditions of this Agreement, the University hereby employs Coach as head coach of the Team, and Coach agrees to be so employed by the University, for a term commencing on the date of last signature below (the "Contract Start Date") and ending on December 31, 2026 ("Term of Employment"). For purposes of this Agreement, contract year one runs from the Contract Start Date through December 31, 2020. All subsequent contract years run from January 1 through December 31.

1.2. Duties.

1.2.1. During the Term of Employment, Coach shall diligently and conscientiously devote his full time, attention, and efforts in performing and discharging the usual and customary duties of a head coach of a National Collegiate Athletic Association ("NCAA") Division I football team, including, but not limited to, the following duties:

- a. Conducting usual and customary coaching activities;
- b. Recruiting, and managing the recruitment of, student-athletes;
- c. Supervising, evaluating, training, and coaching student-athletes in an effort to develop their character, and compete against major college competition;
- d. Being responsible for all customary coaching decisions, including systems and strategies used on the field (both in practice and actual game play), conduct of practice and training, selection of team members, deployment of players, and all other matters involving football operations;

- e. Diligently seeking to foster the academic progress of student-athletes in the program;
- f. Diligently seeking to maintain conduct (both on and off the field) and enforce disciplinary rules and sanctions fairly and uniformly for all student-athletes in the program in order to encourage academic and moral integrity and excellence;
- g. Representing the University, the Department, and the Team, and cooperating with the Department in fulfilling contacts with or requests from the news media, including appearances on radio and television, but recognizing the greater importance of coaching activities;
- h. Assisting with Department or University fund raising and public relations;
- i. Representing in a positive fashion the University and its athletic programs at all times, in all forums;
- j. Consistent with University policy and the authority of the University's Director of Intercollegiate Athletics ("Director"), supervising assistant coaches and support staff for the football program;
- k. Preparing and administering the budget for the football program, subject to the authority and approval of the Director; and
- l. Performing such other duties normally associated with those of a head coach of a high-level NCAA Division I football team, as reasonably requested by the Director or the Director's designee.
- m. Honoring the authority of team doctors, athletic trainers, and other sports medicine staff to make decisions regarding student athlete health and well-being, including decisions regarding fitness to practice, train, or compete; and not encouraging or pressuring student athletes to ignore or deviate from medical advice or directives from team doctors, athletic trainers, and other sports medicine staff; and not condoning or directing others to encourage or pressure student athletes to ignore or deviate from medical advice or directives from team doctors, athletic trainers, and other sports medicine staff.

1.2.2. Unless otherwise expressly permitted in this Agreement, Coach shall not engage in any other business activity or be employed by any other person, firm, or entity, whether or not such activity is pursued for gain, profit, or other pecuniary benefit, without the University's prior written consent; provided, however, subject to NCAA and University rules, during each year of the Term of Employment, Coach may conduct summer football camps. The University's consent will not be unreasonably withheld.

1.2.3. Coach shall not undertake commercial endorsements without the prior written consent of the University (not to be unreasonably withheld, delayed, or

unreasonably conditioned). Coach shall not engage in any activity, if identified as the head coach of the Team, that directly implies approval or endorsement of any good or service, including, but not limited to, the wearing of garments which display a manufacturer's trademark, name, or other logo, unless such activity is first approved in writing by the Director. For example, Coach acknowledges that the University has entered into a MultiSport Agreement with Nike USA Inc. which includes the Team. Coach shall comply with the University's obligations under the Nike Agreement.

1.2.4. Coach shall not appear on radio, television, or any other media in return for a fee, in cash or in kind, without the prior written consent of the University (not to be unreasonably withheld, delayed, or unreasonably conditioned).

1.3. Classification. Coach's employment is a professional appointment subject to the policies and procedures applicable to University of Minnesota Academic Professional and Administrative Employees ("Policies and Procedures"), as the same may be amended from time to time. In the event of a conflict between the terms of this Agreement and the terms of the Policies and Procedures, the terms of this Agreement shall govern.

1.4. Compliance. Throughout the term of this Agreement, in conjunction with the University's compliance office, Coach shall use his diligent efforts to comply with the current and hereafter enacted or promulgated laws, policies, rules, and regulations governing the University and its employees, and the current and hereafter enacted or promulgated constitution, bylaws, rules, and regulations of the NCAA, the Big Ten Conference ("Big Ten"), and any other conference or organization with which the University becomes associated or which affects intercollegiate athletics (individually or collectively, "Governing Associations"). Coach shall use his best efforts to ensure that all assistant coaches of the Team, any other University employee for whom Coach is administratively responsible, and representatives of the University's athletic interests comply with the foregoing laws, policies, rules, regulations, constitutions, and bylaws. Coach shall diligently seek to promote an atmosphere of compliance within the football program and shall monitor the activities of all assistant coaches and administrators involved with the program who report, directly or indirectly, to Coach.

1.5. Other Employment. During the term of this Agreement, Coach agrees not to personally, or through any agent or other representation, seek, negotiate, or accept other full-time employment without first having provided at least forty-eight (48) hours advance written notice to the Director.

1.6. Hiring Authority. Coach understands and acknowledges that he will not have authority to unilaterally make or accept offers of employment for assistant coaches or other support staff, and that ultimate authority over such hiring decisions rests with the Director. Coach further understands and acknowledges that all football program hires are subject to and contingent upon a review of the applicant's background and experience, including any history of NCAA violations, to be conducted by the University. Coach agrees not to make any representation to potential hires, applicants, or anyone else that is contrary to the provisions of this paragraph.

II. COMPENSATION

2.1. Base Salary.

2.1.1. Subject to the terms of this Agreement, for all services rendered by Coach on behalf of the University, the University shall pay Coach annualized base salary as follows: one million one hundred thousand dollars (\$1,100,000). Coach's base salary shall increase by fifty thousand dollars (\$50,000) on January 1, 2021, and on January 1 of each subsequent year during the Term of Employment.

2.1.2. Coach's base salary is subject to furloughs, pay freezes, salary reductions or other similar or related adjustments to the same extent they may be required from time to time of other employees in the Department.

2.2. Supplemental Compensation. Subject to the terms of this Agreement, the University shall pay Coach, in equal biweekly installments, annualized supplemental compensation of three million five hundred thousand dollars (\$3,500,000) in recognition of Coach's efforts on behalf of the University for media, fundraising, community involvement, and endorsements of apparel and shoes. The University will receive and control all outside payments relating to apparel, shoes, and media appearances. Coach's supplemental compensation is subject to furloughs, pay freezes, salary reductions, or other similar or related adjustments to the same extent they may be required from time to time of other employees in the Department.

2.3. Incentive Compensation.

2.3.1. The University shall pay Coach incentive compensation as provided in the Schedule of Incentives, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

2.3.2. The University shall make payment to Coach for competition-related bonuses within thirty (30) days of being earned, and for all other bonuses on or before August 1. No bonus under this section will be earned or paid unless/until the University has determined that the conditions related to the payment have been met, including Coach's compliance with the material terms of this Agreement and any other conditions set forth in the Schedule of Incentives. Further, no competition-related bonus will be earned or paid unless Coach is employed as head coach of the Team on the final day of the regular season or any post-season play for each season, whichever is later; and no other bonus will be earned or paid unless Coach is employed on the final day of classes for the University's spring semester each academic year.

2.4 Benefits. Unless inconsistent with the terms of this Agreement, the University shall provide Coach with a benefit program as provided generally for its professional and administrative employees, as described in and in accordance with the Policies and Procedures. Notwithstanding any provision of this Agreement to the contrary, the amount of the benefits shall be determined based upon Coach's annual base salary, and shall not take into account any other compensation provided under this Agreement.

2.7. Automobile. Subject to University policy applicable generally to its coaches of intercollegiate athletics, the University shall provide Coach the use of an automobile throughout the Term of Employment.

2.8. Travel. The University shall provide space for Coach's wife and children on each charter plane trip to away football games, as well as lodging for those individuals to attend such games. Additional spousal travel appropriate for University purposes but unrelated to football games may be authorized by the Director. At Coach's discretion, spouses or significant others of assistant coaches and support staff members who report directly to Coach may travel with the Team to one regular season away game at the University's expense under University travel reimbursement policies. Additional travel-related expenditures for other individuals to attend away football games may be provided at the discretion of the Director.

2.9. Private Aircraft Use. Subject to availability, the University agrees to fly Coach by private (non-commercial) aircraft when Coach is making recruiting visits and for other, mutually agreed upon University business that is located more than two hundred (200) miles from the Twin Cities campus. Coach's use of such private aircraft shall not exceed sixty (60) hours (including dead-head legs) in any one fiscal year, unless fund-raised dollars (enhancement funds) ear-marked for recruiting expenses are used to cover costs of additional private flights. Any use beyond the sixty (60) hours threshold is subject to approval by the Athletic Director, which can be withheld at the University's sole discretion.

2.10. Suites and Tickets. The University shall provide Coach access to the following tickets to University of Minnesota Gopher athletic events: a suite for all football games; up to twenty (20) tickets to any bowl game in which the Team participates; up to six (6) season tickets to home men's basketball games; up to four (4) season tickets to home men's hockey games; and tickets to other home athletic events for the football program to use at its discretion for the promotion and development of the program. As early as possible, but no later than twenty-four (24) hours prior to each game, Coach shall submit to the Athletic Ticket Office and to the Office of Athletic Compliance a list of the persons to whom Coach provided complimentary tickets for that game.

2.11. Nike Elite Allotment. Provided the University has an equipment supply agreement with Nike, and provided Nike offers Nike Elite allotments as part of that agreement in a sufficient amount, the University will provide Coach with an annual Nike Elite allotment of forty nine thousand dollars (\$49,000) for Coach to allocate to the football assistant coaches and support staff at his discretion. Allocations are a taxable benefit and will be reported through the University payroll system.

2.12. Tax Consequences. All salary and supplemental compensation under this Agreement shall be paid in accordance with the University's regular payroll procedures for professional and administrative employees, and shall be subject to withholding for applicable federal, state, and local income taxes, federal social security taxes, and other applicable taxes and deductions. It is understood that there may be personal tax consequences attributable to Coach as a result of additional compensation, benefits, and amenities provided under this Agreement or otherwise associated with Coach's employment as head football coach, and that Coach is personally responsible for any and all such taxes.

2.13. Exclusive Compensation. The compensation, cash and otherwise, provided to Coach under this Article II shall constitute the total and exclusive compensation owed by the University to Coach.

2.14 Supplemental Salary Pool. On February 1, 2020, the University agrees to make available an additional one million fifty thousand dollars (\$1,050,000) for salaries for assistant coaches and/or other staff for the Team. On February 1, 2021, the University agrees to make available an additional two hundred thousand dollars (\$200,000) for salaries for assistant coaches and/or other staff for the Team.

III. TERMINATION

3.1. The University's Right to Terminate for Cause. Upon written notice to Coach, the University may, for cause, terminate this Agreement or take other appropriate disciplinary action as permitted herein. "Cause" as used in this Agreement shall include, but not be limited to, the following conduct:

- a. A Level I or II violation of a rule of a Governing Association by or involving Coach as reasonably determined by the University, and for which the University has submitted notice to the Governing Association;
- b. A Level I or II violation of a rule of a Governing Association by an assistant coach of the Team or other individual related to the Team which, in the reasonable judgment of the University, Coach knew or should have known about with reasonable diligence and oversight, and for which the University has submitted notice to the Governing Association;
- c. Multiple Level III or IV violations of the rules of a Governing Association that, taken together, constitute a Level I or II violation as contemplated under NCAA Bylaws, Art. 19.02, as reasonably determined by the University, and for which the University reasonably determines Coach had actual knowledge or should have known about with reasonable diligence and oversight;
- d. Failure to report any and all Level I, II, III, or IV violations of the rules of a Governing Association related to the Team, when the University reasonably determines that Coach knew or should have known about such failure with reasonable diligence and oversight;
- e. A substantial failure to perform material responsibilities under this Agreement following written notice from the Director specifying such failure and providing, where practicable, a twenty (20) day opportunity to cure such failure;
- f. Material fraud or dishonesty of Coach, as reasonably determined by the University, in the performance of his duties or responsibilities under this Agreement and/or during the hiring process;
- g. Falsifying or altering documents or records of the University or a Governing Association; or any other documents or records required to be prepared, maintained, or submitted by law, Governing Association rules, or University rules; or any other documents or records pertaining to any recruit or student-

athlete; and/or assisting in such acts by any other person; as reasonably determined by the University;

- h.** Failure by Coach to respond accurately and fully, within a reasonable time, to any request or inquiry relating to the performance of Coach's duties hereunder or at any other institution, propounded by the University, a Governing Association, or any other body having oversight or jurisdiction; or as required by law, Governing Association rules, or University rules; as reasonably determined by the University;
- i.** Coach's instruction to any coach, student, or other person to respond inaccurately or incompletely to any request or inquiry; including any instruction to destroy or conceal any evidence or information concerning a matter relevant to the University's students or athletic programs, or those of any other institution of higher learning; propounded by the University, a Governing Association, or any other body having oversight or jurisdiction; or as required by law, Governing Association rules or University rules; as reasonably determined by the University;
- j.** Coach's soliciting, placing, or accepting a bet on any intercollegiate or professional athletic contest; Coach's expressly permitting, condoning, or encouraging any illegal gambling, bookmaking, or illegal betting involving any intercollegiate or professional athletic contest; or Coach's furnishing information or data relating in any manner to football or any other sport to any individual known by Coach or whom Coach should reasonably know to be involved in gambling, betting, or bookmaking;
- l.** Sale, use, or possession by Coach of any narcotics, drugs, controlled substances, steroids, or other chemicals (excluding any such substances which are prescribed by Coach's physician and taken consistent with the instructions provided by said physician) in violation of law, Governing Association rules, or University rules; or Coach's encouraging or condoning such sale, use, or possession by a student-athlete, assistant coach, Department staff member, or any other person; as reasonably determined by the University.
- m.** Use or consumption by Coach of alcoholic beverages, drugs, controlled substances, or other chemicals (excluding any such substances which are prescribed by Coach's physician, and taken consistent with the instructions provided by said physician), so as to materially impair Coach's ability to perform Coach's duties hereunder, as reasonably determined by the University;
- n.** Failure by Coach to cooperate in the enforcement of any drug testing program established by the University;
- o.** Failure by Coach to obtain prior approval for outside activities, or to accurately report all sources and amounts of income and benefits, as required by this Agreement, Governing Association rules, or University rules, as reasonably determined by the University;

- p. Coach's refusal to obey and/or carry out any reasonable assignment or directive from the Director following written notice from the Director specifying such failure and providing, where practicable, a five (5) day opportunity to cure such failure; or
- q. Coach's commission of or participation in any act, situation, or occurrence, which, in the University's judgment, brings Coach or the University into public disrepute, embarrassment, contempt, scandal, or ridicule.

The University shall not be responsible to Coach for any compensation, benefit, or other payment of any kind after the date of any termination for cause under this Section 3.1.

3.2. The University's Right to Terminate Without Cause.

3.2.1. The University may terminate this Agreement at any time without cause upon thirty (30) days written notice to Coach. In such event, the University shall pay Coach a Termination Fee equaling sixty five percent (65%) of the Base Salary (including any applicable raises under Section 2.1.1) and Supplemental Compensation that, absent termination, would have been paid to Coach through the term of this Agreement.

3.2.2. Any Termination Fee paid under this Section 3.2 shall be subject to withholding for applicable federal and state income taxes, federal social security taxes, and all other applicable taxes and deductions.

a. **Severance.** Coach shall be entitled to receive continued payment of the Termination Fee, in substantially equal monthly installments and subject to all applicable withholdings, until the earlier of 24 months after the date of termination or the last day of the term set forth in Section 1.1 hereof; provided, however, that any such payments scheduled to occur in the first three months following Coach's termination of employment shall not be paid until the last day of the third month after the date of termination.

b. **Nonqualified deferred compensation.** If, on the date of termination, more than 24 months remain in the term, Coach shall also be entitled to receive payment of deferred compensation in accordance with Section 457(f) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"). Such deferred compensation shall consist of payment to Coach of the Termination Fee (as defined in Section 3.2.1), in substantially equal monthly installments, during the period beginning on the first day of the 25th month after the date of termination and ending on the last day of the scheduled term set forth in Section 1.1 hereof. Tax withholding and reporting relating to the payments described in this Section 3.2.2(b) shall be made in accordance with the applicable provisions of the Internal Revenue Code.

c. If it is reasonably determined by the University, after discussion with Coach and Coach's advisors, that some or all of the monthly payments to be made to Coach pursuant to Section 3.2.2(b) would be taxable to Coach prior to their scheduled payment dates, then, on the last day of the third month after the date of termination, the University shall make a single lump sum payment to Coach in an amount equal to the Estimated Tax Amount, subject to all applicable withholdings. For this purpose, the "Estimated Tax Amount" means the amount that the University reasonably determines, based on supplemental tax rates, is necessary for Coach to satisfy all of his applicable federal, state and local income and employment tax obligations on amounts to be paid to Coach pursuant to Section 3.2.2(b) that are taxable in the calendar year of termination rather than in subsequent years in which the scheduled payment dates fall. The Estimated Tax Amount, plus interest utilizing the Applicable Federal Rate (AFR), shall be repaid to the University by Coach in equal or substantially equal monthly payments over the time period during which Coach is to receive payments pursuant to Section 3.2.2(a). Such repayment by Coach shall be accomplished through the reduction by the University of each monthly payment to be made under Section 3.2.2(a) by an amount equal to the monthly amount determined pursuant to the preceding sentence of this Section 3.2.2(c); any such reduction shall be applied after the reduction for mitigation as described in Section 3.2.5. If, for any reason under this Agreement, the payments to be made to Coach by the University under Section 3.2.2(a) end prior to the time that the Estimated Tax Amount has been fully repaid, then Coach shall repay the remaining balance of the Estimated Tax Amount to the University in a single lump sum payment on or before the date that Coach's personal federal income tax return is due for the tax year during which such payments under Section 3.2.2 end.

3.2.3. If the University makes full payment under this Section 3.2, Coach waives the right to seek additional compensation or damages from the University. Termination under this Section 3.2 shall supersede all rights Coach may have under the Policies and Procedures including but not limited to any rights to notice or layoff programs.

3.2.4. As a condition of receipt of any payment under this Section 3.2, Coach is required to mitigate the University's obligations by making reasonable and diligent efforts (under the circumstances and opportunities then prevailing) to obtain a comparable employment position (for example, but not limited to, media commentator with a national broadcast or cable company, professional football assistant or head coach, head football coach of an NCAA Division I team) as soon as practicable following termination of employment.

3.2.5. If Coach is employed post termination (i.e., during the Term of Employment, had this Agreement naturally expired) in a comparable position, then

payments under this Section 3.2 shall cease only if Coach's monthly compensation in the comparable position, excluding reasonable and usual non-monetary fringe benefits such as health and life insurance, club memberships and use of vehicles, is equal to or greater than University's obligation to pay the Termination Fee under Section 3.2.1 prorated on a monthly basis. If Coach's monthly compensation, excluding reasonable and usual non-monetary fringe benefits, from such new employment is less than University's monthly obligation under Section 3.2.1 the amount of University's obligation to pay the Termination Fee shall be reduced by the amount of Coach's compensation, excluding reasonable and usual non-monetary fringe benefits, from such new employment.

3.2.6. Coach agrees that, as a condition of receiving any portion of the Termination Fee under this Section 3.2, Coach or, in the case of any amounts due after Coach's death, the person to whom those amounts are payable (collectively, the "Payee") and the University must execute a release agreement in the format attached as Exhibit B.

3.2.5. For purposes of this Section 3.2, any reference to Coach's "termination of employment" by the University (or any form of the phrase "termination of employment") shall mean Coach's "separation from service" within the meaning of Section 409A of the Internal Revenue Code and Treasury Regulation Section 1.409A-1(h).

3.3. NCAA Enforcement Provisions (NCAA Bylaw 11.2.1). Notwithstanding any other provision of this Agreement to the contrary, if Coach is found in violation of any NCAA rule or regulation (following all timely appeals), Coach is subject to disciplinary or corrective actions as provided by NCAA enforcement procedures.

3.4. Disciplinary Procedure. In the event of any proposed disciplinary action, the Director shall give Coach, orally or in writing, notice of the allegations and an opportunity to present, in person, information relating to the allegations. If the Director then determines that discipline is appropriate, the Director shall, in writing, notify coach of the discipline and the reasons therefore.

3.5. Limited Liability. Subject to the terms of this Agreement, in no event shall the University be liable for the loss by Coach of any bonuses, benefits, perquisites, or income, including, but not limited to, those arising out of or relating to consulting relationships, camps, clinics, media appearances, or from any other sources whatsoever, that may ensue as a result of the University's termination of this Agreement, unless otherwise expressly stated herein. The terms of this Section 3.5 shall not release the University from its obligations to Coach under Section 3.2 of this Agreement.

3.6. Coach's Right to Terminate Without Just Cause. In the event Coach terminates this Agreement during the Term of Employment without just cause (which is hereby permitted), Coach shall pay the University as a Termination Fee as follows:

- a. \$10,000,000 if termination occurs during contract year one;
- b. \$4,500,000 if termination occurs during contract year two;
- c. \$3,000,000 if termination occurs during contract year three;

- d. \$3,000,000 if termination occurs during contract year four;
- e. \$2,000,000 if termination occurs during contract year five;
- f. \$2,000,000 if termination occurs during contract year six;
- g. \$0 if termination occurs during contract year seven.

Payment shall be made no later than sixty (60) days from the date of notice of termination. The University and Coach agree to execute a release agreement in the form attached as Exhibit C in connection with this payment.

IV. BOARD APPROVAL AND BACKGROUND CHECK

The parties acknowledge and agree that this Agreement is subject to formal approval by the University's Board of Regents (BOR). This Agreement shall not be final or binding until formally approved by the BOR. If the BOR does not approve the Agreement, then the parties' current agreement will remain in place, and the parties' relationship will continue to be governed by that agreement.

VI. PROVISIONS OF GENERAL APPLICATION

4.1. Agreement Renewal. Prior to the end of the Term of Employment, Coach will be given notice of the renewal or nonrenewal of this Agreement and the terms of any renewal. If the Agreement is not renewed, Coach shall be given thirty (30) days' notice of non-renewal and if such notice is not given thirty (30) days before the end of the term, the Agreement shall be extended to cover the notice period. This provision shall supersede all rights under University Policies and Procedures including but not limited to any notice requirements or layoff programs.

4.2. Scheduling of Non-Conference Games. Subject to University rules and delegation of authority and Governing Association rules, the Director or the Director's designee shall contract for and establish the football schedule of the Team, and negotiate the terms of the various football game contracts, and accept invitations for pre-season or post-season play. Coach shall be reasonably consulted by the Director or the Director's designee as to the identity of opponents, playing site, and time of play prior to agreeing or contracting with another institution.

4.3. Camp Facility Usage. The University will provide Coach the opportunity to utilize Department facilities for twelve (12) days each year for him to operate football camps, in accordance with University and Department policies and procedures (upon the best terms and conditions offered to any other coach or entity).

4.4. Assignment of Rights. Coach acknowledges that the total compensation to be paid to Coach as head football coach is intended to include any and all amounts Coach might have expected to receive from (1) any television and radio shows and advertising revenues derived from those shows; and (2) any arrangements with athletic shoe, apparel, or equipment companies. It is therefore understood and agreed that any and all rights Coach has in the

production and compensation for any television and radio shows and related advertising and any shoe, apparel or equipment arrangements are hereby assigned in their entirety to the University.

In connection with said assignment, Coach:

- a. Grants to the University the right to use the Coach's name and likeness in promoting any television or radio show;
- b. Grants to the University the right to permit others to sell all or a portion of the advertising for any such show;
- c. Grants to the University the right to collect and retain the revenues generated from the sale of advertising on any such show;
- d. Agrees to appear on any such show and to work cooperatively with the producer of such show in scheduling taping sessions and other related production issues; and
- e. Agrees to work cooperatively with any shoe, apparel or equipment company to assist in the fulfillment of the University's obligations under any arrangement with the shoe, apparel or equipment company.

It is further expressly understood that the University may reassign any and all of the rights assigned to it by Coach.

4.5. Report of Athletically Related Income (NCAA Bylaw 11.2.2.). The University and Coach hereby stipulate that Coach shall annually provide to the Director a written detailed account of all Coach's athletically related income and benefits from sources outside the University including, but not limited to, the following:

- a. Annuity income related in any way to Coach's coaching, recruiting, or educational duties at the University;
- b. Sports camps;
- c. Housing benefits (including preferential housing arrangements);
- d. Country club memberships;
- e. Complimentary ticket sales;
- f. Television and radio programs; or
- g. Endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers.

In addition, Coach shall comply with University of Minnesota policy and procedures regarding "Outside Consulting and Commitments by Intercollegiate Athletic Staff." The policies

and procedures include, but are not limited to, receiving prior approval for any endorsement of a product or service, use of University trademarks and outside consulting commitments.

4.6. Notices/Administration. All notices, requests, and other communications from one of the parties to the other shall be in writing and, except as otherwise provided herein, shall be considered to have been duly given or served if sent by United States mail, first-class, certified or registered, postage pre-paid, return receipt requested, to the respective party at his or its address set forth below or to such other address set forth below or to such other address as such party may hereafter designate by notice to the other:

As to Coach: Philip John Fleck
University of Minnesota
220A Gibson/Nagurski Football Complex
600 15th Avenue Southeast
Minneapolis, MN 55455

As to the University: University of Minnesota
Department of Intercollegiate Athletics
Attention: Director of Athletics
516 15th Avenue S.E.
Minneapolis, MN 55455

With copy to: University of Minnesota
Office of the General Counsel
Attention: General Counsel
360 McNamara Alumni Center
200 Oak Street S.E.
Minneapolis, MN 55455-2006

4.7. Amendment. Any amendment to this Agreement shall be in writing executed and delivered by the parties.

4.8. Parties in Interest/Assignment. This Agreement shall be binding upon and the benefits and obligations provided for herein shall inure to the parties hereto and their respective heirs, legal representatives, successors, assigns, transferees, or donees, as the case may be. No portion of this Agreement shall be assignable without the prior written consent of the other party.

4.9. Effect of Prior Agreements. This Agreement is intended by the parties as the final and binding expression of their contract and agreement and as the complete and exclusive statement of the terms thereof. This Agreement supersedes and revokes all prior negotiations, representations, and agreements, whether oral or written, relating to the subject matter hereof, except as expressly provided herein.

4.10. Enforceability. If any provision contained herein shall be deemed or declared unenforceable, invalid, or void, the same shall not impair any of the other provisions contained herein, which shall be enforced in accordance with their respective terms.

4.11. Construction. The headings preceding and labeling the sections of this Agreement are for the purpose of identification only and shall not in any event be employed or used for the purpose of construction or interpretation of any portion of this Agreement. No waiver by any party of any default or nonperformance hereunder shall be deemed a waiver of any subsequent default or nonperformance. As used herein and where necessary, the singular shall include the plural and vice versa, and masculine, feminine, and neuter expressions shall be interchangeable.

4.12. Applicable Law. The laws of the state of Minnesota shall govern this Agreement and any construction or interpretation thereof.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first shown above.

Date: 11.5.2019

By: 
Philip John Fleck
Coach

**REGENTS OF THE UNIVERSITY OF
MINNESOTA**

Date: _____

By: _____
Joan T. A. Gabel
President

Recommended for Approval:

Date: 11/5/2019

By: Mark Coyle
Mark Coyle
Director of Athletics

Approved as to Form and Legality:

Date: _____

By: _____

Doug Peterson
General Counsel

EXHIBIT A

SCHEDULE OF INCENTIVES

In lieu of any other performance-based bonus plan the University may adopt for sports coaches or other University employees, the University shall pay Coach the following annual incentive bonuses, consistent with the requirements of Section 2.3 and all other terms of this Agreement:

I. Incentive compensation for achieving athletic performance goals as follows:

- | | |
|--|-----------|
| a) Winning the Big Ten Championship | \$150,000 |
| b) A win or tie for the Championship of a Big Ten Football Division | \$100,000 |
| c) Being Named National Coach of the Year by a nationally recognized organization from a list agreed upon by Coach and the Director (see note below) | \$100,000 |
| d) Being Named Conference Coach of the Year by the Big Ten Coaches Poll or the Big Ten Media Poll | \$50,000 |

The amounts provided within this paragraph shall be cumulative.

II. Incentive compensation for receiving an invitation to and participating and coaching in any one of the following bowl games (to be redone if Conference realignment or bowl games change)

- | | |
|---|-----------|
| a) College Football National Championship | \$300,000 |
| b) Participate in College Football Play-Off Semi-Final | \$200,000 |
| c) Participate in one of the six College Football Play-Off Bowl Games, but not a Semi-Final. | \$150,000 |
| d) Participate in a bowl game and be the first or second teams remaining in the overall conference standings not selected to participate in the College Football Play-off Bowl games. | \$125,000 |
| e) Participate in bowl game not identified in sections a, b, or c above | \$75,000 |

The amounts provided within this paragraph are not cumulative.

III. If Team wins a bowl game against an opponent from the ACC, SEC, \$50,000 Big 12 or PAC-12

The team must end the regular season with a minimum of six (6) wins in order for Coach to earn or be eligible for any of the bonuses set forth in Sections II or III above.

IV. Academic Performance - APR. The University shall pay Coach a bonus based on the annual Academic Progress Rate ("APR") for the Team as established each year by the NCAA, beginning at the end of the 2017-2018 academic year, as follows:

a) APR greater than or equal to 960	\$30,000
b) APR greater than or equal to 970	\$50,000
c) APR greater than or equal to 980	\$75,000

The amounts provided within this paragraph are not cumulative.

V. Graduation Success Rate. The University shall pay Coach a bonus based on the Graduation Success Rate ("Graduation Success Rate") for the Team as determined each year by the University consistent with NCAA rules, beginning at the end of the 2017-2018 academic year:

Percentage greater than or equal to 85	\$75,000
Percentage greater than or equal to 75	\$50,000

The amounts provided within this paragraph are not cumulative.

At the end of each season, including any post-season play, the University will review Coach's performance and achievements, both academic and in competitions. Based upon that review, the University may provide Coach with additional incentive compensation if the University determines, in its sole discretion, that such an award is justified based upon exceptional performance. Any such award is entirely discretionary on the part of the University. The grant of any such discretionary award shall not create a precedent or any right to receive the award in any subsequent year.

Note: Below is the list of nationally recognized organizations for which Coach would receive the National Coach of the Year bonus noted in I. d).

AFCA Coach of the Year
Associated Press College Football Coach of the Year Award
Bobby Dodd Coach of the Year Award
Eddie Robinson Coach of the Year
George Munger Award
Home Depot Coach of the Year Award
Paul "Bear" Bryant Award
Sporting News College Football Coach of the Year
Walter Camp Coach of the Year Award
Bobby Bowden National Coach of the Year

EXHIBIT B

RELEASE AGREEMENT

THIS RELEASE AGREEMENT (the "Agreement") is entered into and made effective on this ____ day of _____ 20__ between Regents of the University of Minnesota ("University"), on behalf of its Department of Intercollegiate Athletics ("Department"), and Philip John Fleck ("Coach"). The parties identified above may be referred to herein collectively as the "Parties," and any individual party identified above may be referred to herein as a "Party."

WITNESSETH

WHEREAS, the Parties entered into an agreement entitled, "Employment Agreement," made effective as of _____ (the "Employment Agreement"); and

WHEREAS, the University formerly employed Coach as the head coach of the University's intercollegiate football team; and

WHEREAS, the University has terminated Coach without cause under the terms of the Employment Agreement; and

WHEREAS, pursuant to the Employment Agreement, the University is obligated, subject to the terms and conditions found therein, to make certain payments to Coach; and

WHEREAS, as one condition precedent to the University's payment obligations to Coach, Coach must execute a release in favor of the University;

NOW, THEREFORE, in consideration of the promises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Release.** Coach hereby irrevocably and unconditionally releases, acquits, and forever discharges the University and each of its trustees, officers, representatives, and divisions, (collectively, the "Releasees"), from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to, rights arising out of alleged violations or breaches of any contracts, express or implied, or any tort, or any legal restrictions on the University's rights to terminate employees, or any federal, state or other governmental statute, regulation, or ordinance, including but not limited to the Minnesota Human Rights Act, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and any other law (the "Claim" or "Claims"), which Coach now has, owns or holds, or claims to have, own or hold, or which Coach at any time heretofore had, owned or held, or claimed to have, had, owned or held, against each or any of the Releasees at any time up to and including the date of this Agreement, which is stated above. It is Coach's express intent that

this release be as broad and general as the law permits. However, it does not include claims for worker's compensation.

2. Prohibition Against Litigation. Except as prohibited by law, in consideration of the benefits conferred by this Agreement and by the Employment Agreement, Coach will not sue any of the Releasees on any of the released Claims or join as a party with others who may sue on any such Claims.

3. Representations and Warranties. Coach hereby represents and warrants that he has not filed, nor has he assigned to others the right to file, any complaints, charges, or lawsuits against any of the Releasees with any governmental agency or any court, and that Coach will not file, assign to others the right to file, or make any further claims against the Releasees at any time hereafter for actions taken up to and including the effective date of this Agreement, which is stated above.

4. Representations Regarding Existing Claims. Coach acknowledges and represents that he has no knowledge of any actions or inactions by any of the Releasees that he believes would constitute basis for a claimed violation of any federal, state, or local law, any common law, or any rule promulgated by an administrative body.

5. Governing Law. The laws of the state of Minnesota shall govern this Agreement and any construction or interpretation thereof.

6. MHRA Rescission Period. As required by law, this paragraph provides Coach with notice that the release contained in this agreement applies to claims arising under the Minnesota Human Rights Act (MHRA). Coach may rescind the release of MHRA claims within fifteen (15) calendar days of the date of Coach's signature on this Agreement. To be effective, the rescission must be in writing and delivered to: Douglas R. Peterson, Office of the General Counsel, 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455. The rescission may be delivered by hand or by mail. If delivered by mail, the rescission must be postmarked within the 15-day period; properly addressed; and sent by certified mail, return receipt requested. Otherwise, the rescission will not be effective. If Coach rescinds the release, or any portion of the release, each and every provision of this agreement shall immediately become null and void.

7. ADEA Rescission Period. As required by law, this paragraph provides Coach with notice that the release contained in this Agreement applies to claims arising under the Age Discrimination in Employment Act (ADEA). Coach may rescind the release of ADEA claims within seven (7) calendar days of the date of Coach's signature on this Agreement. To be effective, the rescission must be in writing and delivered to: Douglas R. Peterson, Office of the General Counsel, 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455. The rescission may be delivered by hand or by mail. If delivered by mail, the rescission must be postmarked within the 7-day period; properly addressed; and sent by certified mail, return receipt requested. Otherwise, the rescission will not be effective. If Coach rescinds the release, or any portion of the release, each and every provision of this Agreement shall immediately become null and void.

8. 21-Day Consideration Period. Coach understands that, by law, Coach may take up to twenty-one (21) days to consider the terms of this Agreement before signing it. Coach further understands that Coach may choose to sign the Agreement prior to the expiration of the twenty-one (21) day consideration period. If Coach chooses to sign the Agreement prior to the expiration of the twenty-one (21) day consideration period, Coach will waive the remainder of the twenty-one (21) day consideration period.

9 Right to Consult with Legal Counsel. Coach is notified by this paragraph that he has the right to consult with legal counsel regarding this Agreement before signing. Coach affirms that he has executed that right to the full extent Coach deemed necessary prior to signing.

10. Counterparts; Facsimiles. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing the Agreement, a document signed and transmitted by facsimile machine, electronic mail, or other commercially accepted electronic or mechanical means is to be treated as an original document.

11. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters set forth herein, except the agreement contained in Section 3.2 of the Employment Agreement requiring Coach to mitigate his damages and/or to show good-faith efforts to mitigate, which provision is hereby incorporated by reference as if fully set forth word-for-word herein. Coach shall report on a regular basis, which shall be no less frequent than once per calendar quarter, a detailed description of his efforts to mitigate, and, if Coach obtains any other type of employment, the quarterly reports shall show the dates of employment and the total compensation level. Other than the matters set forth in this Agreement, including this Paragraph 10, there are no agreements, either written or oral, other than those set forth herein with regard to the subject matter of this Agreement.

12. Severability. Each provision of this Agreement is severable from all other provisions of the Agreement. If any governmental authority having jurisdiction over the matters herein determines, during or at the conclusion of any litigation, that any provision of the Agreement will be invalid or unenforceable, the provision will be deemed modified only to the extent necessary to render it valid and enforceable, and all remaining provisions of the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the day and year first above written.

Regents of the University of Minnesota

Coach

By: _____

Philip John Fleck

(print name and title)

EXHIBIT C

RELEASE AGREEMENT

THIS RELEASE AGREEMENT (the "Agreement") is entered into and made effective on this ____ day of _____ 20__ between Regents of the University of Minnesota ("University"), on behalf of its Department of Intercollegiate Athletics ("Department"), and Philip John Fleck ("Coach"). The parties identified above may be referred to herein collectively as the "Parties," and any individual party identified above may be referred to herein as a "Party."

WITNESSETH

WHEREAS, the Parties entered into an agreement entitled, "Employment Agreement," made effective as of _____ (the "Employment Agreement"); and

WHEREAS, the University formerly employed Coach as the head coach of the University's intercollegiate football team; and

WHEREAS, Coach has terminated the Employment Agreement without just cause under the terms of the Employment Agreement; and

WHEREAS, pursuant to the Employment Agreement, Coach is obligated, subject to the terms and conditions found therein, to make certain payments to the University; and

WHEREAS, as one condition precedent to Coach's payment obligations to the University, the University must execute a release in favor of Coach;

NOW, THEREFORE, in consideration of the premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Release. The University hereby irrevocably and unconditionally releases, acquits, and forever discharges Coach, his estate, and each of their representatives (collectively, the "Releasees") from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to, rights arising out of alleged violations or breaches of any contracts, express or implied, or any tort, or any legal restrictions on the Coach's right to terminate the Employment Agreement (the "Claim" or "Claims"), which the University now has, owns or holds, or claims to have, own or hold, or which the University at any time heretofore had, owned or held, or claimed to have, had, owned or held, against each or any of the Releasees at any time up to and including the effective date of this Agreement, which is stated above.

2. Prohibition Against Litigation. Except as prohibited by law, in consideration of the benefits conferred by this Agreement and by the Employment Agreement, the University will

not sue any of the Releasees on any of the released Claims or join as a party with others who may sue on any such Claims.

3. Representations and Warranties. The University hereby represents and warrants that it has not filed, nor has it assigned to others the right to file, any complaints, charges, or lawsuits against any of the Releasees with any governmental agency or any court, and that the University will not file, assign to others the right to file, or make any further claims against the Releasees at any time hereafter for actions taken up to and including the effective date of this Agreement, which is stated above.

4. Representations Regarding Existing Claims. The University acknowledges and represents that it has no knowledge of any actions or inactions by any of the Releasees that it believes would constitute basis for a claimed violation of any federal, state, or local law, any common law, or any rule promulgated by an administrative body.

5. Governing Law. The laws of the state of Minnesota shall govern this Agreement and any construction or interpretation thereof.

6. Counterparts; Facsimiles. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of executing the Agreement, a document signed and transmitted by facsimile machine, electronic mail, or other commercially accepted electronic or mechanical means is to be treated as an original document.

7. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the matters set forth herein, except the agreement contained in Section 3.6 of the Employment Agreement, which provision is hereby incorporated by reference as if fully set forth word-for-word herein, and cannot be altered or modified except by an agreement in writing signed by both Parties.

8. Severability. Each provision of this Agreement is severable from all other provisions of the Agreement. If any governmental authority having jurisdiction over the matters herein determines, during or at the conclusion of any litigation, that any provision of the Agreement will be invalid or unenforceable, the provision will be deemed modified only to the extent necessary to render it valid and enforceable, and all remaining provisions of the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the day and year first above written.

Regents of the University of Minnesota

Coach

By: _____

Philip John Fleck

(print name and title)